

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SANTA ZUNIGA,
Plaintiff

v.

TRI-NATIONAL, INC. AND HARRY
VEITCH,
Defendants

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 5:20-cv-01417

DEFENDANTS TRI-NATIONAL, INC. AND HARRY VEITCH'S
NOTICE OF REMOVAL

To the Honorable Court:

Come now Defendants, Tri-National, Inc. and Harry Veitch (hereinafter “Defendants”) and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, file this Notice of Removal to the United States District Court for the Western District of Texas, San Antonio Division and respectfully show the Court the following:

PROCEDURAL BACKGROUND

1. On November 13, 2020 Santa Zuniga filed her Original Petition styled *Santa Zuniga v. Tri-National, Inc. and Harry Veitch*; in the 225th Judicial District Court in Bexar County, Texas, originally pending as Cause No. 2020CI22159.

2. Defendant Tri-National, Inc. was served with said suit on November 23, 2020. Defendant Harry Veitch was served with said suit on November 30, 2020.

3. Ms. Zuniga alleges that the accident at issue occurred as a direct and proximate result of Defendants’ negligence, negligence per se, and gross negligence, resulting in personal injuries.

4. This removal is filed within 30 days of service upon Defendants and is therefore timely filed under 28 U.S.C. § 1446(b). *See Murphy Bros. v. Michetti Pipe Stringing Inc.*, 526 U.S. 344, 347-48

(1999) (notice of removal is timely under 28 U.S.C § 1446(b) if filed within 30 days after service of the complaint).

5. This United States District Court for the Western District of Texas, San Antonio Division, is the district and division embracing the place where such action is pending. *See* 28 U.S.C. § 103(4). All Defendants consent to this removal to the United States District Court for the Western District of Texas, San Antonio Division.

6. Defendants, concurrently with the filing of this petition, have given written notice of the filing of this Notice of Removal to all parties of record and to the Clerk of the District Court in Bexar County, Texas. (Exhibit 1)

7. Pursuant to 28 U.S.C. § 1446, documents filed in the state court action are attached to this Notice of Removal and are incorporated herein by reference. (Exhibits 2-10).

8. Defendants expressly reserve the right to raise all defenses and objections to Plaintiff's claims or to otherwise plead after the action is removed to this Honorable Court.

REMOVAL BASED ON DIVERSITY JURISDICTION

9. This Court has jurisdiction based on 28 U.S.C. §1332(a)(1) in that “the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between ... citizens of different States.”

Amount in Controversy is Met.

10. Plaintiff seeks recovery of damages in the form of monetary relief “over \$1,000,000.00.” As such, the amount in controversy is greater than \$75,000.00. *See* 28 U.S.C. § 1446(c)(2).

Complete Diversity Exists Among Parties.

11. This Court has subject matter jurisdiction over this action because Plaintiff's citizenship is diverse from the citizenship of Defendants, thereby satisfying the requirements of 28 U.S.C. § 1332.

12. Plaintiff, Santa Zuniga, alleges that she resides in San Antonio, Bexar County, Texas. Thus, she is a citizen of the state of Texas.

13. Defendant, Tri-National, Inc., is a foreign company with its principal place of business in Earth City, Missouri.

14. Defendant, Harry Veitch, is residing in Hot Spring County, Arkansas. Thus, he is a citizen of Arkansas.

15. Because there exists complete diversity of citizenship and an amount in controversy in excess of \$75,000, exclusive of interests and costs, this Court has original jurisdiction over this action. *See* 28 U.S.C. § 1332(a). As a result, this action is removable pursuant to 28 U.S.C. § 1441(a).

JURY DEMAND

16. Defendants Tri-National, Inc. and Harry Veitch demand a jury on all triable issues pursuant to Federal Rules of Civil Procedure 38 and 81(c).

WHEREFORE, Defendants, Tri-National, Inc. and Harry Veitch, pray that this Court accept their Notice of Removal for filing in accordance with the provisions of 28 U.S.C. § 1441, *et. seq.*, and grant other relief to which they may be justly entitled.

Respectfully submitted,

RAY | PEÑA | McCHRISTIAN, P.C.

McAllister Plaza

9601 McAllister Freeway, Suite 901

San Antonio, Texas 78216

(210) 341-3554 Telephone

(210) 341-3557 Facsimile

ipena@raylaw.com

rordones@raylaw.com

/s/ Joseph G. Peña

JOSEPH G. PEÑA

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2020, I served the foregoing on the following counsel of record.

Attorneys for Plaintiff:

Israel Garcia

LAW OFFICES OF ISRAEL GARCIA

Chulie Professional Building

926 Chulie Drive

San Antonio, Texas 78216

(210) 529-9999 (Office)

(210) 225-2300 (Fax)

Email: ig@israelgarcialaw.com

Via Eservice &/or Email

/s/ Joseph G. Peña

Joseph G. Peña

Exhibit Index

Exhibit 1 – Defendants’ Notice to Adverse Party of Removal to Federal Court

Exhibit 2 – Civil Cover Sheet/Docket Sheet

Exhibit 3 – Supplement to JS 44 Civil Cover Sheet

Exhibit 4 – Plaintiff’s Original Petition

Exhibit 5 – Citation of Service to Tri-National, Inc.

Exhibit 6 – Citation of Service to Harry Veitch

Exhibit 7 – Defendant Tri-National, Inc.’s Original Answer and Request for Disclosure

Exhibit 8 – Defendant Harry Veitch’s Original Answer and Request for Disclosure

Exhibit 9 – Notification of Service for Answer for Defendant Tri-National, Inc.’s Answer and Request for Disclosure

Exhibit 10 – Notification of Service for Answer for Defendant Harry Veitch’s Answer and Request for Disclosure

Exhibit 11 – List of All Counsel of Record

Exhibit 12 – Consent of Removal

EXHIBIT 1

EXHIBIT 2

EXHIBIT 3

EXHIBIT 4

EXHIBIT 5

EXHIBIT 6

EXHIBIT 7

EXHIBIT 8

EXHIBIT 9

EXHIBIT 10

EXHIBIT 11

EXHIBIT 12